



DEPARTMENT OF LABOR

Mine Safety and Health Administration

Petition for Modification of Application of Existing Mandatory Safety Standards

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Notice.

SUMMARY: This notice is a summary of a petition for modification submitted to the Mine Safety and Health Administration (MSHA) by the party listed below.

DATES: All comments on the petition must be received by MSHA's Office of Standards, Regulations, and Variances on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: You may submit comments identified by Docket No. MSHA-2022-0030 by any of the following methods:

1. *Federal eRulemaking Portal:* <https://www.regulations.gov>. Follow the instructions for submitting comments for MSHA-2022-0030.

2. *Fax:* 202-693-9441.

3. *Email:* petitioncomments@dol.gov

4. *Regular Mail or Hand Delivery:* MSHA, Office of Standards, Regulations, and Variances, 201 12th Street South, Suite 4E401, Arlington, Virginia 22202-5452,

Attention: S. Aromie Noe, Director, Office of Standards, Regulations, and Variances.

Persons delivering documents are required to check in at the receptionist's desk in Suite 4E401. Individuals may inspect copies of the petition and comments during normal business hours at the address listed above. Before visiting MSHA in person, call 202-693-9455 to make an appointment, in keeping with the Department of Labor's COVID-19 policy. Special health precautions may be required.

FOR FURTHER INFORMATION CONTACT: S. Aromie Noe, Office of Standards, Regulations, and Variances at 202-693-9440 (voice), Petitionsformodification@dol.gov (email), or 202-693-9441 (fax). [These are not toll-free numbers.]

SUPPLEMENTARY INFORMATION: Section 101(c) of the Federal Mine Safety and Health Act of 1977 and title 30 of the Code of Federal Regulations (CFR) part 44 govern the application, processing, and disposition of petitions for modification.

I. Background

Section 101(c) of the Federal Mine Safety and Health Act of 1977 (Mine Act) allows the mine operator or representative of miners to file a petition to modify the application of any mandatory safety standard to a coal or other mine if the Secretary of Labor determines that:

1. An alternative method of achieving the result of such standard exists which will at all times guarantee no less than the same measure of protection afforded the miners of such mine by such standard; or
2. The application of such standard to such mine will result in a diminution of safety to the miners in such mine.

In addition, sections 44.10 and 44.11 of 30 CFR establish the requirements for filing petitions for modification.

II. Petition for Modification

Docket Number: M-2022-009-C

Petitioner: American Consolidated Natural Resources, Inc., 46226 National Road, St. Clairsville, Ohio 43950.

Mines: Ohio County Mine, MSHA ID No. 46-01436, located in Marshall County, West Virginia; Marshall County Mine, MSHA ID No. 46-01437, located in Marshall County, West Virginia; Marion County Mine, MSHA ID No. 46-01433, located in Marion County, West Virginia; and Harrison County Mine, MSHA ID No. 46-01318, located in Harrison County, West Virginia.

Regulation Affected: 30 CFR 75.507-l(a), Electric equipment other than power-connection points; outby the last open crosscut; return air; permissibility requirements.

Modification Request: The petitioner requests a modification of 30 CFR 75.507-l(a) to permit use of the CleanSpace EX Powered Respirator in return air outby the last open crosscut.

The petitioner states that:

(a) The petitioner previously used the 3M airstream helmets to provide miners respirable dust protection on the longwall faces.

(b) 3M has discontinued the Airstream helmet, and there are no other MSHA-approved Powered Air Purifying Respirators (PAPRs).

(c) The CleanSpace EX is certified by UL under the ANSI/UL 60079-11 standard to be used in hazardous locations because it meets the intrinsic safety protection level and is acceptable in other jurisdictions for use in mines with the potential for methane accumulation.

(d) The CleanSpace EX Power Unit, manufactured by CleanSpace, has been determined to be intrinsically safe under IECEx and other countries' standards.

(e) CleanSpace is not pursuing MSHA approval.

The petitioner proposes the following alternative method:

(a) The equipment will be examined at least weekly by a qualified person according to 30 CFR 75.512-2. Examination results will be recorded weekly and may be expunged after one year.

(b) The petitioner will comply with 30 CFR 75.323.

(c) A qualified person under 30 CFR 75.151 will monitor for methane in the affected area of the mine as is required by the standard.

(d) When not in operation, batteries for the PAPR will be charged on the surface or underground in intake air and in return air outby the last open crosscut.

(e) The following battery charging products will be used: PAF-0066 and PAF-1100.

(f) Qualified miners will receive training regarding how to safely use, care for, and inspect the PAPR, and on the Decision and Order before using equipment in the relevant part of the mine. A record of the training will be kept and available upon request.

The petitioner asserts that the alternative method proposed will at all times guarantee no less than the same measure of protection afforded the miners under the mandatory standard.

Song-ae Aromie Noe,

Director,

Office of Standards, Regulations, and Variances.

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